

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

DARREN A. BRITTO, *et al.*,

Plaintiffs,

v.

BUREAU OF ALCOHOL, TOBACCO,
FIREARMS, AND EXPLOSIVES.

Defendant.

No. 2:23-cv-19-Z

**JOINT MOTION TO STAY DISTRICT COURT PROCEEDINGS
PENDING APPEAL IN *MOCK***

The parties respectfully request that this Court stay further proceedings pending the Fifth Circuit's resolution of the expedited appeal of the district court's order denying a preliminary injunction in *Mock v. Garland*, No. 23-10319 (5th Cir.). In *Mock*, a motions panel of the Fifth Circuit granted plaintiffs' request for an injunction pending appeal on May 23, 2023. The Fifth Circuit also expedited the appeal, ordering the parties to complete briefing by June 20, 2023, and setting oral argument the following week. On May 31, 2023, this Court granted a preliminary injunction in this case as to the Plaintiffs, pending resolution of the expedited appeal of *Mock*. ECF No. 59.

This Court has "broad discretion to stay all proceedings in an action pending the resolution of independent proceedings elsewhere." *Hisler v. Gallaudet Univ.*, 344 F. Supp. 2d 29, 35 (D.D.C. 2004) (citing *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)). The Fifth Circuit's decision in the *Mock* appeal will likely provide significant guidance for resolving this case on the merits. A stay pending appellate review of relevant legal issues would thus ensure that the Court's and the parties' time and resources are conserved. Courts within this Circuit routinely stay proceedings where (as here) the resolution of an appeal will likely guide the district court in deciding the issues before it. *See, e.g., Greco*

v. Nat'l Football League, 116 F. Supp. 3d 744, 761 (N.D. Tex. 2015) (staying proceedings pending the Fifth Circuit's resolution of an appeal in a related case because the "final outcome" of that appeal would "very likely bear on this case" and "streamline issues for dispositive motions"); *Cunningham v. Hamilton-Ryker IT Sol., LLC*, 2023 WL 2964422, at *2 (S.D. Tex. Apr. 10, 2023) (finding that it made "little sense" for the court "to require the parties to move forward with this case . . . when the Fifth Circuit will soon issue a ruling" in a related case that would substantially impact the resolution of the parties' dispute). Indeed, the district court in the *Mock* litigation recently granted a stay of district proceedings pending the resolution of the appeal in that case. See *Mock v. Garland*, 4:23-v-95-O (N.D. Tex.), ECF No. 61.

Accordingly, the parties respectfully request that the Court stay District Court proceedings pending resolution of the expedited appeal of *Mock*, and order the parties to provide a Joint Status Report within fourteen days after the issuance of the Fifth Circuit's mandate in *Mock*.

Dated: June 22, 2023

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

BRIGHAM J. BOWEN
Assistant Branch Director

/s/ Michael Drezner
MICHAEL DREZNER (VA #83836)
JODY D. LOWENSTEIN (MT #55816869)
TAYLOR PITZ (CA #332080)
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: 202-514-4505
Email: Michael.L.Drezner@usdoj.gov

Attorneys for Defendants

WISCONSIN INSTITUTE FOR
LAW & LIBERTY, INC.

s/ Daniel P. Lennington

Richard M. Esenberg (admitted *pro hac vice*)
Daniel P. Lennington (admitted *pro hac vice*)
Lucas T. Vebber (admitted *pro hac vice*)
330 East Kilbourn Avenue, Suite 725
Milwaukee, WI 53202
Telephone: (414) 727-9455
Facsimile: (414) 727-6385
Rick@will-law.org
Dan@will-law.org
Lucas@will-law.org

TORMEY & McCONNELL

Ed J. McConnell (Bar No. 13442500)
Jeffrey W. Tormey (Bar No. 00794746)
310 SW 6th Avenue
Amarillo, TX 79101
Telephone: (806) 414-4087
Jeff@tmcattorneys.com
Ed@tmcattorneys.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2023, I electronically filed the foregoing document with the Clerk of Court using this Court's CM/ECF system, which will notify all counsel of record of such filing.

/s/ Michael Drezner
MICHAEL DREZNER
Trial Attorney
U.S. Department of Justice